IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Crl.MC.No. 2715 of 2007()

AGAINST THE ORDER IN SC.907/2002 IN
LP.3/2007 OF SESSIONS COURT (ADHOC), KOTTARAKKARA
CRIME NO.274/1999 OF KUNNIKKODU POLICE STATION

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PETITIONER: ACCUSED

JOY, S/O. MATHAI,
CHIRAYIL VEETTIL, CHAKKUVARAYKAL, KOTTAVATTOM,
KOLLAM.

BY ADV. SRI.SANTHAN V.NAIR
SRI.A.MUHAMMED RAFFI

RESPONDENTS: STATE

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. THE SUB INSPECTOR,
KUNNIKKODU POLICE STATION, PUNALUR.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2715 of 2007

Dated this the 24th day of August 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable under the Kerala Abkari Act. The petitioner had appeared before the learned Magistrate. He was enlarged on bail. But subsequently as he had to leave for his place of employment abroad, he could not appear before the court. The case is now pending before the Sessions court after committal. Consequent to the non-appearance of the petitioner, the learned Sessions Judge has initiated coercive processes against the petitioner. The case has been transferred to the list of long pending cases also.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence was not wilful but was due to reasons beyond his control. The petitioner now wants to surrender before the learned Sessions Judge and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Sessions Judge on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the

learned Sessions Judge to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Sessions Judge and explain to the learned Sessions Judge, the circumstances under which he could not earlier appear before the learned Sessions Judge. I find absolutely no reason to assume that the learned Sessions Judge would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Sessions Judge and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Sessions Judge must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007